IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 462 of 2007 (M/B)

1. Deepa Das w/o Prem Das
2. Prem Das s/o Dhirendra Das
Both r/o 70 Dev Lok, Shimla Bypass,
Dehradun …… Petitioner

Versus

Allahabad Bank, Dehradun Branch,
Gandhi Road, Dehradun ..…. Respondents

Sri Kishore Kumar, Advocate for the petitioners
Sri K.K.Sah, Advocate for the respondent.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Sri Kishore Kumar, Advocate for the petitioners.

Sri K.K. Sah, Advocate for respondent.

They are heard on admission.

2. The petitioners have filed this writ petition for the following reliefs:

"(1) Issue a writ, order or direction in the nature of certiorari quashing the notice dated 06.03.2007 (Annexure No. 4 to the Writ Petition) issued by the respondent bank through publication in newspaper for sale of the house of the petitioners and a writ in the nature of certiorari quashing the recovery notice dated 06.03.2007 (Annexure No. 4 to the writ petition) for the amount of Rs. 5,42,498/- plus further interest and cost.

(2) Issue a writ in the nature of mandamus commanding the respondent to open the seal from the house of the petitioners and further commanding the respondent bank to accept the instalments as directed by the Court earlier.

(3) Pass any other and further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(4) Award the cost of the petition."

3. The petitioners, in substance, are challenging the proceedings initiated by respondent Bank U/s 13 of the Secrutisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 against the petitioners, who are defaulters.

4. In view of the dictum of the apex Court in the case of **Mardia Chemicals Ltd. and others Vs. Union of India and others** reported in **(2004) 4 SCC 311,** the writ petition is not maintainable at all.

5. The writ petition, therefore, is liable to be dismissed.

6. The writ petition, therefore, is dismissed with liberty to the petitioners to avail the other remedies which may be available to the petitioners under the relevant provisions of law.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**
27.04.2007 27.04.2007

A